

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

NEXTDOOR.COM, INC.,

Plaintiff,

v.

RAJ ABHYANKER,

Defendant.

Case No. 12-cv-05667 EMC (NC)

**ORDER DENYING PLAINTIFF'S
MOTION FOR EXPERT
REIMBURSEMENT**

Re: Dkt. No. 351

The parties dispute whether defendant Raj Abhyanker must reimburse \$7,287.50 in preparation expenses incurred by plaintiff's expert witness Deborah Jay. Abhyanker noticed Jay's deposition; then postponed it at the last minute; and finally Nextdoor.com objected to the deposition, which never took place. The standard is that "Unless manifest injustice would result, the court must require that the party seeking discovery . . . (i) pay the [testifying] expert a reasonable fee for time spent in responding to discovery." Fed. R. Civ. P. 26(b)(4)(E).

Here, the party seeking discovery is Abhyanker. There is no question that Jay, a testifying expert for Nextdoor.com, spent time in responding to Abhyanker's discovery before the deposition was canceled. The Court finds, however, that manifest injustice

1 would result from an order requiring Abhyanker to reimburse Jay's expenses.

2 First, Nextdoor.com has objected to producing Jay for a deposition, so Abhyanker has
3 not received the benefit of his discovery request. Dkt. No. 351 at 2. Second, the request for
4 reimbursement is at least several weeks tardy and Nextdoor.com has not established good
5 cause for an extension. Expert discovery closed September 2, and any motion to compel
6 was required within seven days of the deadline. Civil L.R. 37-3.

7 Because injustice would result from a reimbursement of Jay's expenses,
8 Nextdoor.com's request is denied. Abhyanker's request for an award of attorney's fees in
9 responding to the motion is also denied, as Abhyanker shares responsibility for delaying the
10 Jay deposition at the last minute, which increased her expenses.

11 Any party may object to this nondispositive order, but must do so within 14 days.
12 Fed. R. Civ. P. 72(a); Civil L.R. 72-2.

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15 IT IS SO ORDERED.

16 Date: October 7, 2014


Nathanael M. Cousins
United States Magistrate Judge